

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

KEVIN WAYNE McDANIELS,

C/A No. 1:14-3728-TLW-SVH

Plaintiff,

v.

CHUCK WRIGHT, ET AL.,

**ORDER FOR
REIMBURSEMENT OF PLRA FEE**

Defendants.

This matter comes before the Court on the Government's motion, filed on behalf of the United States Federal Bureau of Prisons as an interested party, which seeks an order reimbursing \$11.03 in PLRA fees to inmate Kevin Wayne McDaniels. (ECF No. 30.) McDaniels filed a response indicating his consent to this motion. (ECF No. 31.) As set forth below, the Government's motion is hereby granted.

As asserted by the parties, McDaniels currently has a matter pending in the Southern District of New York (Civil Action No. 7:15-cv-06163-KMK). In the New York case, it was determined that for three months in early 2015 the Bureau of Prisons deducted more than 20 percent of the monthly income to McDaniels' prison trust fund account for outstanding filing PLRA fees for two cases that were formerly pending in the District of South Carolina (Civil Action Nos. 1:12-cv-6-TLW-SVH, and 1:14-cv-3728-TLW-SVH). The Bureau of Prisons forwarded these funds to this Court, and the funds were credited toward McDaniels' outstanding PLRA fees.

However, the issue of whether a prisoner's income may be deducted at a rate of 20 percent total *per prisoner*, or 20 percent *per filing fee* incurred by a prisoner under 28 U.S.C.

§ 1915(b) is unsettled. The Second and Fourth Circuits have held that 20 percent of monthly income is the maximum amount that may be deducted from an inmate's account, regardless of the total number of filing fees the inmate is paying. *See Torres v. O'Quinn*, 612 F.3d 237, 252 (4th Cir. 2010); *Whitfield v. Scully*, 241 F.3d 264, 277 (2d Cir. 2001).

The Bureau of Prisons does not oppose reimbursing McDaniels the \$11.03 in fees that were arguably overcharged based on the legal issue set forth above. Further, McDaniels consents to this reimbursement.

After carefully considering the filings of the parties, the Court finds that granting the Government's motion is in the interest of judicial economy and will preserve the resources of this Honorable Court and the United States Attorney's Office for the District of South Carolina. Therefore, the Clerk of Court is hereby directed to reimburse PLRA fees in the total amount of \$11.03 to:

Kevin Wayne McDaniels
Register No. 14256171
FCI Otisville
Attn: Trust Fund
PO Box 600
Otisville, New York 10963

IT IS SO ORDERED.



The Honorable Terry L. Wooten
Chief United States District Judge

December 23, 2015
Columbia, South Carolina